

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HEADWATER RESEARCH LLC,

Plaintiff,

v.

CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS AND VERIZON CORPORATE
SERVICES GROUP INC.,

Defendants.

Case No. 2:23-cv-00352-JRG-RSP

JURY TRIAL DEMANDED

HEADWATER RESEARCH LLC,

Plaintiff,

v.

T-MOBILE USA, INC. AND SPRINT CORP.,

Defendants.

Case No. 2:23-cv-00377-JRG-RSP

(Member Case Under -379 Action)

JURY TRIAL DEMANDED

HEADWATER RESEARCH LLC,

Plaintiff,

v.

T-MOBILE USA, INC. AND SPRINT CORP.,

Defendants.

Case No. 2:23-cv-00379-JRG-RSP

JURY TRIAL DEMANDED

HEADWATER RESEARCH LLC,

Plaintiff,

v.

AT&T SERVICES, INC., AT&T MOBILITY,
LLC AND AT&T CORP.,

Defendants.

Case No. 2:23-cv-00397-JRG-RSP

JURY TRIAL DEMANDED

HEADWATER RESEARCH LLC,

Plaintiff,

v.

AT&T SERVICES, INC., AT&T MOBILITY,
LLC AND AT&T CORP.,

Defendants.

Case No. 2:23-cv-00398-JRG-RSP

(Member Case Under -397 Action)

JURY TRIAL DEMANDED

JOINT MOTION TO AMEND DOCKET CONTROL ORDERS

Plaintiff Headwater Research, LLC (“Headwater”) and Defendants Cellco Partnership, d/b/a Verizon Wireless and Verizon Corporate Services Group Inc. (collectively, “Verizon”); T-Mobile USA, Inc. and Sprint Corp. (collectively, “T-Mobile”); and AT&T Services, Inc., AT&T Mobility, LLC, and AT&T Corp. (collectively, “AT&T”) (all together, the “parties”) respectfully file this Joint Motion to Amend the Docket Control Order entered in the above-captioned cases and would show the Court as follows:

The parties have been diligently working to complete discovery but have encountered unavoidable conflicts and other circumstances that provide good cause to modify the schedule in each case to extend all deadlines by approximately 3-4 weeks, including the trial date. *See* Ex. A (Verizon Proposed DCO); Ex. B (T-Mobile Proposed DCO); Ex. C (AT&T Proposed DCO).

These cases involve three defendants, with the same four patents asserted against each defendant. To conserve Court and party resources, the parties have made significant efforts to coordinate in discovery, including by combining depositions across cases where possible and by leveraging deposition testimony from prior cases to streamline several depositions. The parties have also obviated numerous depositions through stipulations.

Nonetheless, the parties have encountered significant challenges in attempting to complete fact discovery, including the taking of depositions of third parties and party witnesses with very limited availability. The parties began taking depositions on December 5, 2024, within two weeks of the combined claim construction hearing, and have already completed over 20 depositions. This includes several completed third-party depositions. The parties will also complete 8 more depositions on January 10, 2025, which is the current close of fact discovery in each case. But there remain approximately 25 witnesses whose unavoidable conflicts and other scheduling limitations have made them unavailable for deposition until after January 10, including multiple critical 30(b)(6) witnesses and important third parties. This includes, for example, 30(b)(6) designees on financials and technical operations of the accused products. It also includes third-party corporate representatives of accused product manufacturers like Google, who will provide testimony on source code and technical documents describing the operation of the accused products. In addition, the parties are still attempting to schedule depositions of several third-party witnesses who have been subpoenaed but have yet to provide their availability, including former employees of the parties who were involved in the pre-suit history between the parties.

Several of these witnesses have significant conflicts until late January or early February, explaining the length of the proposed extension. As one example, third party Thomas Russell's first availability for deposition is January 28, 2025. Mr. Russell was subpoenaed by Headwater in August 2024, and Headwater believes he has allegedly important relevant information concerning the history between Headwater and Verizon, which Headwater believes is highly relevant to its infringement and damages case. As another example, Headwater's sole 30(b)(6) witness and named inventor on all asserted patents, Dr. Greg Raleigh, has very limited availability during the month of January due to the forthcoming trials in *Headwater Research LLC v. Samsung*

Electronics Co. Ltd., Case No. 2:22-cv-00422-JRG-RSP (“the -422 Action”) and *Headwater Research LLC v. Samsung Electronics Co. Ltd.*, Case No. 2:23-cv-00103-JRG-RSP (“the -103 Action”). Both of these trials are scheduled for January 13, 2025, with the -422 Action in the first position among cases with this trial setting. Headwater and Dr. Raleigh are diligently preparing for trial in the -422 Action on January 13, as well as for trial in the -103 Action should that be reset to the next trial setting of January 27. Should that happen, Headwater would make Dr. Raleigh available for his multiple-day deposition the week immediately following trial in the -103 Action (i.e., the week of February 3-7). As still other examples, third-party Google’s sole witness on source code and the technical operation of numerous accused features, is scheduled for deposition on January 31. Given the number and import of depositions that will necessarily occur after the current close of fact discovery of January 10, the parties would strongly prefer to avoid supplementation of expert reports and the Court and party resources that such supplementation would likely require.

These timing challenges are also greatly exacerbated by the recent and devastating wildfires impacting the Los Angeles area, where Headwater’s counsel is located. Several of Headwater’s attorneys deeply involved in these cases and the upcoming trials in the -422 Action and -103 Action have already lost their homes in the last 48 hours. Several other Headwater attorneys and experts, and their families, have evacuated their homes as a result of these ongoing wildfires, which are still far from contained. Headwater is not seeking a continuance of next week’s trial in the -422 Action, which was originally scheduled for August but was continued to January following a continuance requested by Samsung. Nonetheless, the wildfire situation has been and continues to be a challenge to juggling the work to be done in the above-captioned cases, the trial settings, and coordinating with families to address the immediate and long-term results of the fires.

The parties appreciate that requests to continue trial dates are not taken lightly and are challenging for the Court to accommodate. The parties confirm that the requested schedule modifications are not being presented so that new depositions can be taken or new discovery requests served. The parties represent that this Motion is not filed for the purposes of delay but rather so that justice may be served. The parties have met and conferred and are jointly seeking the relief sought in this Motion.

Accordingly, the parties respectfully request that the Court grant this Joint Motion and enter the accompanying Amended Docket Control Order submitted for each case and schedule these cases for trial on the requested dates or as soon thereafter as is practicable for the Court. *See* Ex. A (Verizon Proposed DCO); Ex. B (T-Mobile Proposed DCO); Ex. C (AT&T Proposed DCO).

Dated: January 10, 2025

/s/ Katherine Q. Dominguez

Katherine Q. Dominguez
kdominguez@gibsondunn.com

Josh A. Krevitt
jkrevitt@gibsondunn.com

Brian A. Rosenthal
broenthal@gibsondunn.com

Charles Sim
csim@gibsondunn.com

Eli Balsam
ebalsam@gibsondunn.com

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue
New York, NY 10166-0193
Telephone: 212.351.4000
Facsimile: 212.351.4035

Robert Vincent
rvincent@gibsondunn.com

GIBSON, DUNN & CRUTCHER LLP

2001 Ross Avenue, Suite 2100
Dallas, TX 75201

/s/ Marc Fenster

Marc Fenster
CA State Bar No. 181067
Email: mfenster@raklaw.com

Reza Mirzaie
CA State Bar No. 246953
Email: rmirzaie@raklaw.com

Brian Ledahl
CA State Bar No. 186579
Email: bledahl@raklaw.com

Ben Wang
CA State Bar No. 228712
Email: bwang@raklaw.com

Adam Hoffman
CA State Bar No. 218740
Email: ahoffman@raklaw.com

Dale Chang
CA State Bar No. 248657
Email: dchang@raklaw.com

Paul Kroeger
CA State Bar No. 229074
Email: pkroeger@raklaw.com

Telephone: 214.698.3112
Facsimile: 214.571.2910

Andrew W. Robb (CA Bar No. 291438)
arobb@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
310 University Avenue
Palo Alto, CA 94301
Telephone: 650.849.5334
Facsimile: 650.849.5034

Hannah Bedard
hbedard@gibsondunn.com
Michelle Zhu
mzhu@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Telephone: 202.777.9413
Fax: 202.831.6063

Celine Crowson (D.C. Bar No. 0436549A)
Hogan Lovells
555 13th St NW,
Washington, DC 20004
Telephone: 202-637-5600
celine.crowson@hoganlovells.com

Tej Singh (California Bar No. 286547)
Yi Zhang (California Bar No. 342823)
Kyle Xu (California Bar No. 344100)
Hogan Lovells
4 Embarcadero Center Suite 3500
San Francisco CA, 94111
Telephone: 415-374-2300
tej.singh@hoganlovells.com
yi.zhang@hoganlovells.com
kyle.xu@hoganlovells.com

Deron R. Dacus
ddacus@dacusfirm.com
THE DACUS FIRM, P.C.
821 ESE Loop 323, Suite 430
Tyler, TX 75701
Phone: 903.705.1117

Neil A. Rubin
CA State Bar No. 250761
Email: nrubin@raklaw.com
Kristopher Davis
CA State Bar No. 329627
Email: kdavis@raklaw.com
James S. Tsuei
CA State Bar No. 285530
Email: jtsuei@raklaw.com
Philip Wang
CA State Bar No. 262239
Email: pwang@raklaw.com
Amy Hayden
CA State Bar No. 287026
Email: ahayden@raklaw.com
Ryan Lundquist
CO State Bar No. 56449
Email: rlundquist@raklaw.com
Jason M. Wietholter
CA State Bar No. 337139
Email: jwietholter@raklaw.com
Qi (Peter) Tong
TX State Bar No. 24119042
Email: ptong@raklaw.com
RUSS AUGUST & KABAT
12424 Wilshire Blvd., 12th Floor
Los Angeles, CA 90025
Telephone: 310-826-7474

Andrea L. Fair
TX State No. 24078488
MILLER FAIR HENRY PLLC
1507 Bill Owens Parkway
Longview, Texas 75604
Telephone: 903-757-6400
andrea@millerfairhenry.com

**ATTORNEYS FOR PLAINTIFF,
Headwater Research LLC**

Attorneys for Verizon

/s/ Katherine Q. Dominguez

Katherine Q. Dominguez
kdominguez@gibsondunn.com

Josh A. Krevitt
jkrevitt@gibsondunn.com

Brian A. Rosenthal
brosenthal@gibsondunn.com

Charles Sim
csim@gibsondunn.com

Eli Balsam
ebalsam@gibsondunn.com

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue
New York, NY 10166-0193
Telephone: 212.351.4000
Facsimile: 212.351.4035

Robert Vincent
rvincent@gibsondunn.com

GIBSON, DUNN & CRUTCHER LLP

2001 Ross Avenue, Suite 2100
Dallas, TX 75201
Telephone: 214.698.3112
Facsimile: 214.571.2910

Andrew W. Robb (CA Bar No. 291438)
arobb@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
310 University Avenue
Palo Alto, CA 94301
Telephone: 650.849.5334
Facsimile: 650.849.5034

Hannah Bedard
hbedard@gibsondunn.com

Michelle Zhu
mzhu@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP

1700 M Street N.W.
Washington, D.C. 20036
Telephone: 202.777.9413
Fax: 202.831.6063

Celine Crowson (D.C. Bar No. 0436549A)

Hogan Lovells

555 13th St NW,
Washington, DC 20004
Telephone: 202-637-5600
celine.crowson@hoganlovells.com

Tej Singh (California Bar No. 286547)

Yi Zhang (California Bar No. 342823)

Kyle Xu (California Bar No. 344100)

Hogan Lovells

4 Embarcadero Center Suite 3500
San Francisco CA, 94111
Telephone: 415-374-2300
tej.singh@hoganlovells.com
yi.zhang@hoganlovells.com
kyle.xu@hoganlovells.com

Melissa R. Smith

melissa@gillamsmithlaw.com

GILLIAM & SMITH, LLP

303 South Washington Avenue
Marshall, TX 75670
Telephone: 903-934-8450
Facsimile: 903-934-9257

Attorneys for T-Mobile

/s/ Nicholas Mathews

Nicholas Mathews

Texas State Bar No. 24085457

nmathews@McKoolSmith.com

Alexander J. Chern

Texas State Bar No. 24109718

achern@McKoolSmith.com

Clare Churchman

Texas State Bar No. 24132041

cchurchman@mckoolsmith.com

McKool Smith, P.C.

300 Crescent Court Suite 1500
Dallas, TX 75201
Telephone: (214) 978-4000
Telecopier: (214) 978-4044

Kevin Hess

Texas State Bar No. 24087717

khess@mckoolsmith.com

McKool Smith, P.C.

303 Colorado Street, Suite 2100

Austin, TX 78701

Telephone: (512) 692-8752

Sean O'Leary

Texas State Bar No. 24138326

soleary@mckoolsmith.com

MCKOOL SMITH, P.C.

600 Travis Street, Suite 7000

Houston, TX 77002

Telephone: (713) 485-7300

Telecopier: (713) 485-7344

Deron R. Dacus

State Bar No. 00790553

ddacus@dacusfirm.com

The Dacus Firm, PC

821 ESE Loop 323, Suite 430

Tyler, TX 75701

Telephone: (903)705-1117

Facsimile: (903) 581-2543

Attorneys for AT&T Corp., AT&T
Mobility LLC, and AT&T Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 10th day of January 2025, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Marc Fenster
Marc Fenster

CERTIFICATE OF CONFERENCE

The undersigned certifies that counsel complied with the requirements of Eastern District of Texas Local Rule CV-7(h). The parties are in agreement on filing this Joint Motion.

s/ Marc Fenster
Marc Fenster